

STATE OF MICHIGAN
COURT OF APPEALS

In re M. E. DAY, Minor.

UNPUBLISHED

May 12, 2015

No. 324004

Wayne Circuit Court

Family Division

LC No. 12-510368-NA

Before: RIORDAN, P.J., and JANSEN and HOOD, JJ.

PER CURIAM.

Respondent appeals as of right the trial court's order terminating her parental rights to the minor child under MCL 712A.19b(3)(c)(i), (c)(ii), (g), and (j). We affirm.

"In order to terminate parental rights, the trial court must find by clear and convincing evidence that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met." *In re VanDalen*, 293 Mich App 120, 139; 809 NW2d 412 (2011). "We review the trial court's determination for clear error." *Id.* "A finding is 'clearly erroneous' if, although there is evidence to support it, we are left with a definite and firm conviction that a mistake has been made." *In re HRC*, 286 Mich App 444, 459; 781 NW2d 105 (2009).

The trial court did not clearly err in finding that petitioner established MCL 712A.19b(3)(c)(i), (g), and (j), by clear and convincing evidence. At the adjudication respondent admitted being homeless. The utilities in her apartment had been shut off and she had been evicted. Respondent was also unemployed and had a history of depression. By the time of the termination hearing, respondent had not demonstrated that she could maintain suitable housing. She had moved four times since the child's adjudication. Early in the case respondent suggested that she and the child move into the home of an elderly woman who had dementia. After being advised that this would not be a suitable living arrangement for the child, she moved into housing leased by a man who had been convicted of first degree criminal sexual conduct and was listed on the sex offender registry as a pedophile. Respondent was dishonest with the caseworker about her relationship with this man but eventually admitted exchanging sexual relations with him for rent. Respondent subsequently moved in with her stepfather but refused to provide the caseworker with information so she could do a background check and assess suitability of the home. Although at the permanent custody hearing respondent testified that she had been living alone in a five-bedroom house on Eureka road for the past year, she never showed the caseworker her lease agreement.

Respondent also never demonstrated that she could maintain employment and support her daughter. There was no evidence to support her claim that she had been a home health care aide since the summer of 2013. At one point respondent stated that she had been laid off, but the temporary agency she worked for told the caseworker that respondent chose not to work. Respondent never provided the caseworker with proof of employment. When asked why she did not bring income verification to court for the permanent custody hearing, she said she was “rushing.”

Respondent blamed her lack of compliance with the treatment plan on depression but never adequately addressed her issues. Respondent’s psychological evaluation recommended that she participate in therapy, treat her depression, and improve her parenting skills, but respondent did not take recommended medication to treat her depression or complete therapy. Thus, given that the issues leading to adjudication—lack of suitable housing, unemployment, and untreated depression—continued to exist, termination of parental rights was proper under MCL 712A.19b(3)(c)(i).

Termination of respondent’s parental rights was also proper under MCL 712A.19b(3)(g) and (j). Respondent was unable to provide proper care of the child who would have been at risk of harm in respondent’s care. Respondent did not benefit from therapy or parenting classes, and her decision making skills had not improved. She did not recognize the risk of harm to the child living with an elderly woman with dementia would pose. Her claim that she could have ensured that a man with a history of first degree criminal sexual conduct did not have unsupervised access to the child is likewise unpersuasive. This man posed extreme danger to a young child. Even if she had suitable housing, respondent was not prepared to take care of a young child. By her own admission at the permanent custody hearing, she did not have food in her refrigerator.

Respondent’s inability to provide proper care was also demonstrated in her lack of consideration for the child’s emotional wellbeing. Respondent missed 37 of 83 offered visits and did not visit the child at all between April 1, 2014, and June 26, 2014. These missed visits interfered with respondent’s ability to bond with the child and caused the child emotional distress. Her inconsistency with visits got so bad that the caseworker insisted that respondent come to visits early, and workers would not tell the child about the visit unless they knew respondent was already there. Respondent refused bus tickets even though she did not appear to have reliable transportation and blamed missed visits on the visits being scheduled too early in the morning. Even when the visits were rescheduled to 11:00 a.m., respondent continued to be late and miss visits. When respondent did attend visits she did not give the child guidance or direction.

Given her unstable housing and poor judgment regarding what constituted suitable housing, her inability to maintain employment, and her lack of consideration for the child’s emotional wellbeing, respondent was unable to provide proper care of the child. There was also no evidence respondent could keep the child safe from physical or emotional harm given her

questionable judgment and her willingness to miss visits. Thus, termination of parental rights was proper under MCL 712A.19b(3)(g) and (j).¹

Although respondent did not raise the issue of the trial court's best-interest determination, MCL 712A.19b(5), we nonetheless find no clear error. There was no evidence that respondent could meet the child's emotional, physical, or material needs. Respondent had shown questionable parental judgment and an uncertain potential for success during the time she was provided services. In considering the best interests of the child, this Court must consider the child's need for permanency. See *In re Trejo*, 462 Mich 341, 364; 612 NW2d 407 (2000). Based on a review of the record and respondent's inability to provide a proper, stable, permanent home environment for the child, the trial court did not clearly err in determining that termination of respondent's parental rights was in the child's best interests.

Affirmed.

/s/ Michael J. Riordan
/s/ Kathleen Jansen
/s/ Karen M. Fort Hood

¹ The trial court did not specifically note which facts it relied upon to support termination of parental rights under MCL 712A.19b(3)(c)(ii), and we do not find any factual support. However, because only one statutory ground has to be established for termination, this error is harmless. See *In re Powers Minors*, 244 Mich App 111, 118; 624 NW2d 472 (2000).